

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JAMES MCGINN,

Plaintiff,

V.

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS,  
MASSACHUSETTS ENVIRONMENTAL POLICE, and SECRETARY MATTHEW A. BEATON IN HIS OFFICIAL AND INDIVIDUAL CAPACITY,

Defendants.

Civil Action No. 19-CV-11551-IT

**STATE DEFENDANTS' MOTION TO DISMISS**

The Executive Office of Energy and Environmental Affairs (“EEA”), the Massachusetts Environmental Police (“MEP”), and former EEA Secretary Matthew Beaton sued in his official capacity (“Secretary”) (collectively, the “State Defendants”), move to dismiss plaintiff James McGinn’s (“McGinn”) Complaint pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state a claim upon which relief may be granted. The grounds for this motion are set forth in the accompanying Memorandum in Support of State Defendants’ Motion to Dismiss.

## REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), the State Defendants request oral argument on this Motion.

EXECUTIVE OFFICE OF ENERGY AND  
ENVIRONMENTAL AFFAIRS,  
MASSACHUSETTS ENVIRONMENTAL  
POLICE, and SECRETARY MATTHEW A.  
BEATON IN HIS OFFICIAL CAPACITY

By its attorneys,

/s/ David S. Mackey

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Dated: October 15, 2019

Certification of Compliance With Local Rule 7.1(a)(2)

I hereby certify that I conferred with Timothy Burke, counsel for James McGinn, on October 11, 2019, and that counsel were unable to resolve or narrow the issues raised in this Motion.

/s/ David S. Mackey

David S. Mackey

Certificate of Service

I hereby certify that a true and accurate copy of this document was filed through the Electronic Case Filing system, and will be served upon the attorney of record for each party registered to receive electronic service, and that a true copy of this document was served upon the attorney of record for James McGinn by mail, on this 15<sup>th</sup> day of October, 2019.

/s/ David S. Mackey

David S. Mackey